

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ADRIAN TL JOHNSON,

Plaintiff,

v.

SGT. BERNDT, et al.,

Defendants.

Case No. 2:20-cv-00150-JAD-EJY

ORDER

Presently before the Court are Plaintiff's Motion to Serve Unexecuted Summons (ECF No. 20) and Motion to Procure and Preserve Surveillance Footage (ECF No. 21).¹

On December 17, 2020, the Court issued its Screening Order granting Plaintiff's Application to Proceed *in forma pauperis*, and ordering, *inter alia*, Plaintiff's First Amendment retaliation claims to proceed against Defendants Sgt. Berndt, Sgt. Leavitt, Correctional Officer Heim, and Correctional Officer Williams. ECF No. 10 at 13. Summonses were returned executed for Defendants Sgt. Berndt, Sgt. Leavitt, and Correctional Officer Heim. ECF Nos. 14 and 16. However, summons was returned unexecuted for Defendant Williams. ECF No. 15. The U.S. Marshal indicated that this Defendant could not be "identified due to [his] common name. Needs P# or first name." *Id.* at 1.

To that end, Plaintiff filed the instant Motion to Serve Unexecuted Summons which states, in relevant part:

Plaintiff has no resources to find out ... Defendant[Williams'] first ... name, but upon information and belief the initial of his first name is J For further detail he is a caucasian male, in his late 30s or early to mid 40's, wears glasses, his height is approximately 5 foot 6 inches. On or about April 27, 2020, Officer Williams was on duty in Clark County Detention Center on the 4th floor in the South Tower of the jail, securing module 4J working on the day shift hours being 6:00 a.m. to 6:00 p.m. which was his regular or standard post until the 3 month cycle where he ... rotated to floor 2 in South Tower securing module 2J, where he also spent 3 months at until the next cycle ... prior to year 2021. It is also believed that Williams['] P# is 9222.

¹ The Court has made typographical changes to the titles of Plaintiff's Motions for the sake of clarity.

1 ECF No. 20 at 2. The Court shall order the Clerk of Court to issue a summons for Defendant
2 Williams based on the new identifying information Plaintiff has provided.

3 Plaintiff also filed the present Motion to Procure and Preserve Surveillance Footage (ECF
4 No. 21), which he brings pursuant to Fed. R. Civ. P. 34(a). ECF No. 21 at 2. Rule 34(a), however,
5 states that a “party may serve on *any other party*”—not the Court—“a request within the scope of
6 Rule 26(b).” If and when a discovery dispute arises, Plaintiff must also first meet and confer with
7 the opposing party in an attempt to resolve the dispute before filing a discovery motion with the
8 Court. Fed. R. Civ. P. 37(a)(1); Local Rules LR IA 1-3(f) and LR 26-6(c). Plaintiff’s Motion to
9 Procure and Preserve Surveillance Footage is therefore denied as it is not properly before the Court.

10 Accordingly,

11 IT IS HEREBY ORDERED that Plaintiff’s Motion to Serve Unexecuted Summons (ECF
12 No. 20) is GRANTED.

13 IT IS FURTHER ORDERED that the Clerk of Court shall issue summons for Defendant
14 Williams with the identifying information Plaintiff provided in his Motion to Serve Unexecuted
15 Summons (*id.* at 2).

16 IT IS FURTHER ORDERED that the Clerk of Court shall send **one** copy each of Plaintiff’s
17 Complaint (ECF No. 11), the Court’s Screening Order (ECF No. 10), and this Order to the U.S.
18 Marshal for service on Defendant Williams.

19 IT IS FURTHER ORDERED that the Clerk of Court shall send **one** copy of the USM-285
20 form to Plaintiff.

21 IT IS FURTHER ORDERED that Plaintiff shall have until **March 25, 2021** to complete the
22 USM-285 service form and return it to the U.S. Marshal, United States Courthouse, 333 Las Vegas
23 Blvd. South, Las Vegas, Nevada 89101.

24 IT IS FURTHER ORDERED that the U.S. Marshall shall attempt to effect service within
25 **fifteen (15) days** of the date he receives Plaintiff’s USM-285.

26 IT IS FURTHER ORDERED that Plaintiff shall have **21 days** from the date the U.S. Marshal
27 returns to Plaintiff a copy of the USM-285 form showing whether service was accomplished to file
28 a notice with the Court stating whether Defendant Williams was served. If Plaintiff wishes to have

1 service attempted again on this Defendant, he must seek that relief by filing a motion in which he
2 specifies a more detailed name and/or address for this Defendant, or states whether some other
3 manner of service should be attempted.

4 IT IS FURTHER ORDERED that Plaintiff's Motion to Procure and Preserve Surveillance
5 Footage (ECF No. 21) is DENIED.

6 DATED THIS 23rd day of February, 2021.

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9 ELAYNA J. YOUCHAK
10 UNITED STATES MAGISTRATE JUDGE
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